

2001 WI 33

FILED

APR 3, 2001

Cornelia G. Clark
Clerk of Supreme Court
Madison, WI

SUPREME COURT OF WISCONSIN

In the Matter of the Amendment of
the Rules of Civil Procedure:
Wis. Stat. § 801.16(2) - Filing of
Papers by Facsimile Transmission

ORDER
No. 00-09

On January 16, 2001, the court held a public hearing on a petition filed on August 31, 2000, by the Director of State Courts on the recommendation of the Committee of Chief Judges and District Court Administrators requesting the amendment of Wis. Stat. § 801.16(2) to provide the maximum length of a facsimile transmission to be 15 pages, unless exception is granted, and to clarify that papers filed by facsimile transmission constitute the official record. The court has considered the matters presented at the public hearing.

IT IS ORDERED that, pursuant to Wis. Stat. § 751.12 and effective July 1, 2001, sec. 801.16 **(2)** (a), (b), and (c) of the statutes are amended to read:

801.16 **(2)** (a) A court may adopt a local rule, if it is approved by the chief judge, that ~~requires the use of a plain-paper facsimile machine and~~ permits the filing of those papers ~~by facsimile transmission to~~ with the clerk of circuit court by

facsimile transmission to a plain-paper facsimile machine at a telephone number designated by the court. To provide uniformity, any local rule shall specify a 15-page limit for a facsimile transmission, unless an exception is approved by the assigned judge or court commissioner on a case-by-case basis.

(b) If no rule has been adopted under par. (a), a the assigned judge or court commissioner may permit a party or attorney in a specific matter to file ~~those~~ papers with the clerk of circuit court by facsimile transmission to a plain-paper facsimile machine at a telephone number designated by the assigned judge or court commissioner.

(c) ~~The~~ If the facsimile transmission exceeds 15 pages or is filed in the absence of a local rule, the party or attorney,
~~by filing papers by facsimile transmission, certifies that permission of the~~ shall certify that the assigned judge or court
~~for filing by facsimile transmission has been granted~~
commissioner has approved the facsimile transmission.

(f) ~~Papers filed by facsimile transmission are considered filed when transmitted except that papers filed by facsimile transmission completed after regular business hours of the clerk of~~ circuit ~~court's office are considered filed the next business day.~~

IT IS FURTHER ORDERED that, pursuant to Wis. Stat. § 751.12 and effective July 1, 2001, sec. 801.16 **(2)** (d) and (e) of the statutes are created to read:

(d) If papers are transmitted to a plain-paper facsimile machine of a noncourt agency, party, or company for the receipt,

transmittal, and delivery to the clerk of circuit court, the clerk of circuit court shall accept the papers for filing only if the transmission complies with the local rule or has been approved by the assigned judge or court commissioner and certified by the party or attorney.

(e) Facsimile papers are considered filed upon receipt by the clerk of circuit court and are the official record of the court and may not be substituted. No additional copies may be sent. The clerk of circuit court shall discard any duplicate papers subsequently received by the clerk of circuit court, assigned judge, or court commissioner.

IT IS ORDERED that notice of these amendments to Wis. Stat. § 801.16 (2) be given by a single publication of a copy of this order in the official state newspaper and in an official publication of the State Bar of Wisconsin.

Dated at Madison, Wisconsin, this ____ day of April, 2001.

BY THE COURT:

Cornelia G. Clark
Clerk of Court